

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C 07-4762 PJH

Plaintiff,

**ORDER RE ADMINISTRATIVE
MOTION FOR LEAVE TO FILE
UP TO FIVE DISPOSITIVE MOTIONS**

v.

CHARLES CATHCART, et al.,

Defendants.

Before the court is defendants Charles Hsin ("Hsin") and Franklin Thomason's ("Thomason") administrative motion pursuant to Civil Local Rule 7-11, seeking leave of court to file up to five dispositive motions or, in the alternative, to file a consolidated brief extending the page limitation twenty-five (25) pages per joiner. Defendants Robert Nagy, Charles Cathcart and Yuri Debevc join the motion. Plaintiff United States ("plaintiff") opposes the motion.

Preliminarily, the court notes that Hsin and Thomason's motion does not comply with Rule 7-11(a)'s requirement that motions brought pursuant to Rule 7-11(a) be accompanied by either a stipulation or declaration that explains why a stipulation could not be obtained. Notwithstanding this procedural error, the court will nonetheless construe Hsin and Thomason's administrative motion as a motion properly filed pursuant to the local rules, in view of the fact that plaintiff filed an opposition to the motion. The court, however, will not consider Hsin and Thomason's reply brief filed in support of their administrative motion as it does not comply with Civil Local Rule 7-11 (authorizing the filing of an opposition brief only). The reply brief is therefore STRICKEN. Having reviewed the parties' papers, the court hereby orders as follows.

Although the court would prefer one consolidated brief, given the nature of the allegations in the operative complaint and plaintiff's acknowledgment that various

1 defendants may wish to challenge separate parts of their allegations against them, the
2 court finds that separate motions for summary judgment may be warranted. While each
3 defendant is entitled to file a dispositive motion, not to exceed 25 pages in length, as
4 provided by Civil Local Rule 7-2(b), defendants apparently propose that they be permitted
5 to elect between filing an individual 25 page brief or a consolidated brief whose size may be
6 increased by 25 additional pages for each joiner. The court rejects this proposal. The
7 purpose of a consolidated brief is to consolidate the arguments as they pertain to all
8 defendants. What defendants propose is to add all of the 25 page briefs together, resulting
9 in potentially a 125 or 150 page brief depending on the correct number of defendants, to
10 which the parties do not agree. A brief in excess of 100 pages would be unwieldy and likely
11 poorly crafted. Moreover, defendants have made no showing that a brief of this length is
12 warranted.

13 Instead defendants are permitted the following two options: they may either each file
14 a single 25 page brief or may file a consolidated 25 page brief, whose page numbers may
15 be increased by five pages per joiner. Thus, if there is one joiner the brief will be 30 pages,
16 and the other defendants may file individual briefs, or if all defendants join, the brief may be
17 55 pages. Plaintiff shall be entitled to file briefs of equivalent length in opposition. Reply
18 briefs shall not exceed 15 pages, however, the length of consolidated reply briefs may be
19 increased by 2 pages per joiner. Additionally no page may contain footnotes of more than
20 2 inches.

21 As with the corresponding administrative motion, the court extends today's filing
22 deadline by 2 days to Friday June 26, 2009; extends the deadline for opposition briefs by 2
23 days; but does not extend the deadline for reply briefs. The extension is permitted in the
24 event that any previously prepared briefs need reformatting in light of this order.

25 **IT IS SO ORDERED.**

26 Dated: June 24, 2009



27
28 PHYLLIS J. HAMILTON
United States District Judge